

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:08-HC-2099-BR

UNITED STATES OF AMERICA)	
)	
v.)	AMENDED
)	SETTLEMENT AGREEMENT
)	
PHILIP KATON,)	
)	
Respondent.)	

Petitioner, the United States of America, by and through the United States Attorney for the Eastern District of North Carolina, and Respondent, Philip Katon, by and through his counsel of record, Joseph Craven, have agreed that this matter should be concluded in accordance with terms and conditions of this agreement as follows:

1. This Amended Settlement Agreement supersedes and replaces the original Settlement Agreement signed by the parties on August 25, 2011, and constitutes the full and complete record of the agreement of this matter. There are no other terms of this agreement in addition to or different from the terms contained herein.

2. Respondent admits and stipulates that the United States certified Respondent as a sexually dangerous person under 18 U.S.C. § 4248 pursuant to lawful procedures, and his release from imprisonment was stayed on August 19, 2008.

3. Respondent admits and stipulates that the amended

criminal judgment against him in the matter of United States of America v. Philip Katon, in the United States District Court for Vermont, Docket No. 1:03-CR-110, on May 15, 2006, imposed upon him a two (2) year term of supervised release, and that the judgment ordered that the term of supervised release was to be served "upon release from imprisonment." Respondent filed a Motion to Clarify Terms of Supervised Release in the Vermont criminal case on April 4, 2011. Respondent will abandon and no longer pursue this Motion to Clarify. Respondent instead admits and stipulates that, by the operation of law defined by 18 U.S.C. § 4248, his "release" from imprisonment was "stayed," and that, consequently, his term of supervised release has not commenced. See e.g. David H. Tobey v. United States, Civil Action No. DKC 10-1358 (Chasanow, Judge) (D. Md.)

4. Respondent agrees and promises that, in consideration of the United States' agreement to voluntarily dismiss this action with prejudice, he will not collaterally attack the order of supervised release contained in the criminal judgment against him.

5. Respondent further agrees and promises that, in consideration of the United States' agreement to voluntarily dismiss this action with prejudice, he waives his statutory right to a hearing on the modification of the conditions of his supervised release, as evidenced by his signature on the ~~waiver~~ ^{Amended Settlement Agreement} witnessed by his counsel of record, Joseph Craven, and agrees to

the conditions of supervised release.

6. Petitioner agrees and promises that, in consideration of Respondent's admissions and stipulations set out in Paragraphs 2 through 3 above and Respondent's agreements and promises in Paragraphs 4 through 5 above, the United States will file a motion under Rule 41 of the Federal Rules of Civil Procedure asking the Court to dismiss this action with prejudice and to lift the stay on Respondent's release from imprisonment.

7. Petitioner and Respondent jointly request that the Court conduct a hearing to inquire of counsel for the United States, Respondent, and Respondent's counsel whether each of them personally affirms in open court that the terms and conditions of this settlement agreement have been entered and undertaken knowingly and voluntarily after having had adequate opportunity to seek counsel.

Respectfully submitted, this the 26 day of August, 2011.

THOMAS G. WALKER
UNITED STATES ATTORNEY

BY: W. Ellis Boyle
W. ELLIS BOYLE
Assistant U.S. Attorney

Philip Katon
PHILIP KATON
Respondent

Joseph Craven
Joseph Craven
Attorney for Respondent

APPROVED, this _____ day of _____, 2011.

W. EARL BRITT
United States District Judge